<u>**Table of Contents**</u>

IAB CASE NO. **IV2313304**

# COUNTY OF LOS ANGELES
# SHERIFF'S DEPARTMENT

## ADMINISTRATIVE INVESTIGATIVE SUMMARY

**DATE / TIME:** May 8, 2012 at 2300 hours

**LOCATION:** Westbound Interstate 10 Freeway off ramp at Towne Avenue, Pomona

**IAB #:** **IV2313304**

**SUBJECTS:** Rafael Munoz
Deputy Sheriff
North County Correctional Facility

**ALLEGATION**

It is alleged Deputy Munoz caused embarrassment to the Department, resulting from an off-duty solo vehicle hit and run collision. It is further alleged at the time of the collision, Deputy Munoz had a prohibited association with the passenger in his vehicle who is a convicted felon and had a reputation for criminal activity.

**SUMMARY**

On May 8, 2012, Deputy Munoz was involved in an off-duty hit and run traffic collision in the city of Pomona. The collision was handled and investigated by the California Highway Patrol. As a result of the investigation, Deputy Munoz was charged with misdemeanor hit and run and Deputy Munoz was placed on a criminal monitor with Internal Affairs Bureau pending the outcome of the case.

> **IAB NOTE-** The hit and run report is attached as **Exhibit A**. The arrest report is attached as **Exhibit B**.

One count of misdemeanor hit and run, section 20002(A)(1) of the California Vehicle Code was filed in Pomona Superior Court on June 28, 2012. On October 26, 2012, Deputy Munoz was convicted of misdemeanor hit and run in Pomona Superior Court, Department 2 and sentenced to two years summary probation by Judge Geanene M. Yriarte.

As a result of the conviction, Deputy Munoz was placed on the District Attorney's office, [redacted]. Following the conviction, an Internal Affairs administrative investigation began at the request of North County Correctional Facility, Captain Trujillo.

At the time of the collision, Deputy Munoz was driving his 2006 Chevy Colorado pick-up truck. The passenger in Deputy Munoz's vehicle was later identified as [redacted] As a result of the traffic collision, Deputy Munoz's vehicle was inoperable and deemed a total loss by his insurance company. Refer to **Exhibit C** for further.

> **IAB NOTE-** Internal Affairs investigators later learned Mr. [redacted] is Deputy Munoz's [redacted], [redacted] from Deputy Munoz in the city of [redacted].

After the collision, Deputy Munoz and Mr. [redacted] fled the scene on foot in separate directions, abandoning the vehicle on the center divider of Towne Avenue, partially blocking the roadway. The collision was investigated by Officer [redacted] from the California Highway Patrol, Baldwin Park office.

Officer [redacted] was unable to contact Deputy Munoz regarding the collision, after several attempts. There were two civilian witnesses who observed two males running from the vehicle after the collision. Their statements can be found in the collision report **(Exhibit A)**. At 1500 hours on May 9, 2012, Deputy Munoz responded to the California Highway Patrol office and completed a hand written counter report (**Exhibit D)** acknowledging he was the driver of the vehicle and that he panicked when he realized he did not have his driver's license in his possession. He said he left on foot to retrieve his wallet and when he returned to the scene, his vehicle was gone. Internal Affairs investigators noted the counter report was only partially completed by Deputy Munoz and several questions were left unanswered.

> **IAB NOTE-** Although Mr. [redacted] was Deputy Munoz's passenger at the time of the collision, Officer [redacted] was never able to identify the passenger and Mr. [redacted] was not listed as a passenger in the collision report.

Officer [redacted] completed his investigation without a verbal statement from Deputy Munoz. Based on his investigation and the written statement submitted by Deputy Munoz, Officer [redacted] submitted an arrest report **(Exhibit B)** listing Deputy Munoz as a suspect of misdemeanor hit and run, violation of 20002(a)(1) of the California Vehicle Code.

A restitution hearing was set for December 14, 2012 for damages to State property incurred during the collision. For reasons unknown, the hearing was vacated from the court calendar without prejudice and Deputy Munoz was not required to pay restitution to the State.

**IAB NOTE-** According to the collision report a freeway sign was knocked over during the collision. Refer to Exhibit A, page 7.

The collision and arrest reports (**Exhibits A and B**) from the California Highway Patrol should be referred to for details regarding the traffic collision and subsequent investigation. In addition, the minutes regarding all court proceedings related to this case is attached included in this case. See **Exhibit H**.

**IAB NOTE-** Refer to the interview summary and transcripts of Deputy Munoz's Internal Affairs interview for complete details of his explanation of events in this case.

Deputy Munoz was interviewed twice by Internal Affairs investigators. The first interview was to question Deputy Munoz regarding the circumstances of the collision. The second interview was to question Deputy Munoz regarding his association with Mr. [redacted] after investigators later learned of Mr. [redacted] criminal history. During the first Internal Affairs interview of Deputy Munoz, he confirmed the identity of his passenger as his [redacted], [redacted] from him in the city of [redacted]. Immediately following his interview, Internal Affairs investigators located and contacted Mr. [redacted] at his place of employment in order to conduct an interview of him regarding the collision.

**IAB NOTE-** For complete details regarding Mr. [redacted] statements regarding the collision, refer to his interview summary and transcripts in this case.

While interviewing Mr. [redacted] regarding the collision, Internal Affairs investigators discovered Mr. [redacted] was a convicted felon having previously served time in State Prison. After the interview, investigators conducted a [redacted] of Mr. [redacted] and discovered he had three felony convictions and three misdemeanor convictions and was on active probation for [redacted] at the time of the interview. Mr. [redacted] is attached to this case. See **Exhibit F**.

The following is a list of Mr. [redacted] convictions and sentencing:

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Mr. [redacted] told investigators he fled from the accident scene because he was scared. He said it was the first accident he had ever been in (refer to [redacted] transcripts, page 6). That statement was contrary to his [redacted] conviction of [redacted] During the interview, investigators noted Mr. [redacted] had a spider web and 909 tattoos on his elbow in plain view.

> **IAB NOTE-** Deputy Munoz admitted Mr. [redacted] had tattoos on his arms, but could not describe the tattoos to investigators.

Deputy Munoz denied knowledge of Mr. [redacted] criminal history although he acknowledged him and Mr. [redacted] took different life paths and he often gave Mr. [redacted] advice about going to school and getting a job. Additionally, Deputy Munoz has known Mr. [redacted] since [redacted] and they have been neighbors since then. Deputy Munoz said his parents know Mr. [redacted] parents and the two families have joined each other in the past for BBQ's and during Christmas time.

Deputy Munoz told Internal Affairs investigators he was unaware Mr. [redacted] had served any jail time and never informed his unit commander of his association with Mr. [redacted] Deputy Munoz did not notice Mr. [redacted] was gone from his home for extended periods of time while he [redacted] was serving time in county jail or state prison. Deputy [redacted] told Internal Affairs investigators he may have not noticed Mr. [redacted] was gone, because he (Munoz) had gone away to college for four years.

> **IAB NOTE-** Deputy Munoz indicated he was away in college from [redacted]. According to Mr. [redacted] criminal history, his troubles began in [redacted] when Deputy Munoz would have been back from college.

The criminal monitor and subsequent administrative investigation were handled by separate investigators from Internal Affairs Bureau. The entire criminal monitor folder which was obtained during the administrative investigation is submitted with this case as **Exhibit I.** Some of the documents contained in the criminal monitor are duplicated in this investigation, but were intentionally left, in order to preserve the order and ease of understanding for the reader. Contained within the criminal monitor (**Exhibit I**) are photographs which were taken by the Internal Affairs investigator (during the criminal monitor) nearly a month after the incident. The photographs depict what is believed to

be the area of impacts based on the collision report; including a photograph of the freeway sign which was presumed to be knocked over during the collision. The restitution hearing never occurred, therefore there is no solid proof the damage depicted in the photographs were caused by Deputy Munoz.

> **IAB NOTE-** Deputy Munoz told Internal Affairs investigators he did not recall damaging any property, other than his own vehicle.

**The following interview summaries are based on statements given during audio recorded interviews by the subject and witnesses. For complete and detailed statements, refer to the digital audio/video recorded files or the verbatim transcripts, which are included in this investigation.**

## WITNESS INTERVIEW SUMMARY

[redacted] was interviewed by Internal Affairs investigators on April 16, 2013 at his place of employment in the city of [redacted] Investigators were unaware of Mr. [redacted] criminal history at the time of the interview. The purpose of the interview was to obtain information from Mr. [redacted] as a witness to the traffic collision. During the interview Mr. [redacted] admitted to having served time in State Prison. Mr. [redacted] was aware of Deputy Munoz's occupation and has known Deputy Munoz nearly his entire life.

Prior to the collision Deputy Munoz told Mr. [redacted] he was going to see a friend. Mr. [redacted] begged Deputy Munoz to let him go and Deputy Munoz agreed. Mr. [redacted] was the passenger in Deputy Munoz's vehicle. He said the accident happened so fast and everything was a blur. He said Deputy Munoz lost control but did not know how. Mr. [redacted] did not see a vehicle cut him off and could not recall if the airbags deployed.

> **IAB NOTE-** Mr. [redacted] appeared nervous throughout the interview. Several times throughout the interview he would begin to say something, and then say he did not remember. Refer to transcripts for details.

After the accident, Mr. [redacted] said, "We pretty much waited around and took off." He said he took off and Deputy Munoz was nowhere to be found. Deputy Munoz and Mr. [redacted] both left in separate directions. Mr. [redacted] did not know in which direction Deputy Munoz left, but said he went to a donut shop to call his girlfriend for a ride. Mr. [redacted] said he left because he was scared. He said the vehicle was totaled and it was "scary" to be around there. Mr. [redacted] said it was the first he had ever been involved in an accident like that.

**IAB NOTE-** Mr. [redacted] was convicted of [redacted] in [redacted] and was on probation for that conviction at the time of his Internal Affairs interview. When asked, Mr. [redacted] denied he was on probation to investigators.

Mr. [redacted] said Deputy Munoz never told him to stay and wait for the police to arrive. Mr. [redacted] denied being under the influence of alcohol at the time of the collision and said he was not injured. He said he just took off without either him or Deputy Munoz communicating anything. Mr. [redacted] said, "The whole reason for me taking off was to avoid you (police)....I didn't want nothing to do with it." When questioned about that comment, Mr. [redacted] clarified that he was not worried about the police and had no reason to worry. Mr. [redacted] said he never discussed the accident with Deputy Munoz after the incident except that Deputy Munoz apologized to him for putting him in that situation.

Mr. [redacted] was asked his opinion about the image of Deputy Munoz as a peace officer after this incident. Mr. [redacted] said in part, "He is a good guy. He is a role model citizen and he is the reason why I'm here. I've been doing some stupid things in the past and he's always telling me slow down and encourages me to do better."

Mr. [redacted] was asked if he thought there was anything wrong with leaving the scene of an accident. Mr. [redacted] replied, "I don't know. I've never done that before."

## SUBJECT INTERVIEW SUMMARY

**Deputy Rafael Munoz** was first interviewed by Internal Affairs investigators on April 16, 2013 regarding the hit and run. He was re-interviewed on May 2, 2013 regarding his association with Mr. [redacted] He was represented by his attorney Alfonso Estrada from the Law Office of Green and Shinee.

Prior to the hit and run accident, Deputy Munoz was at home preparing to meet some girls at "BJ's Restaurant" in West Covina. Mr. [redacted] knocked on his door and asked to tag along with Deputy Munoz. The two of them drove away in Deputy Munoz's 2006 Chevy Colorado pick-up. Deputy Munoz was driving and Mr. [redacted] was the passenger. Deputy Munoz entered the westbound Interstate 10 freeway at Indian Hill in the city of Montclair and exited Towne Avenue in Pomona to get gas.

**IAB NOTE-** Deputy Munoz could not provide Internal Affairs investigators any telephone numbers to the girls he was going to meet and only knew one of the girls went by the nickname, "Monie." He deleted their phone numbers after that night.

Deputy Munoz was in the center lane of the Towne Avenue off-ramp which is a three lane exit. Deputy Munoz said an unidentified vehicle cut him off and he swerved to avoid a collision with that vehicle. He could not describe the vehicle that cut him off. Deputy Munoz lost control of his vehicle causing his vehicle to collide with the center island that divides the north and southbound lanes of Towne Avenue. Deputy Munoz said his vehicle became inoperable after the collision.

> **IAB NOTE-** According to the CHP report, Deputy Munoz's vehicle first collided with a center island at the end of the off-ramp, striking and knocking over a freeway, "Do Not Enter" sign. Deputy Munoz did not recall hitting the sign; however he acknowledged his vehicle sustained major front end damage which included two front flat tires, front grill damage, hood damage and a busted windshield. The vehicle's airbags also deployed. Deputy Munoz's vehicle later was deemed a total loss by his insurance company (Refer to **Exhibit C).**

After the collision, Deputy Munoz panicked and realized he did not have his driver's license with him. He knew not having his license in his possession was a violation of the Vehicle Code and decided to walk back home to retrieve his license. Deputy Munoz told Mr. [redacted] to wait at the location. Deputy Munoz was unable to make any phone calls to report the collision because he had left his cellular phone in his vehicle.

> **IAB NOTE-** Using a photocopy of the location obtained from "MapQuest," Deputy Munoz provided Internal Affairs investigators with the route he took on foot after the collision. See **Exhibit E**.

By his own admission, Deputy Munoz abandoned his vehicle blocking the number one lane northbound on Towne Avenue. Although it was night, Deputy Munoz did not turn on his hazard lights to warn oncoming vehicles.

When Deputy Munoz returned to the scene of the collision approximately eighty minutes later, his vehicle and Mr. [redacted] were gone. Deputy Munoz went back home and decided he would deal with it in the morning. His cell phone remained in his vehicle and he did not consider using a payphone. Deputy Munoz did not have a home phone. Deputy Munoz never spoke to Mr. [redacted] about the collision after the fact. The only thing he knew was Mr. [redacted] went home after the collision but they both took different routes.

> **IAB NOTE-** According to reports, CHP Officer [redacted] responded to Deputy Munoz's house at 0013 hours but no one answered. Deputy Munoz said he was probably asleep and was unaware CHP was at his door.

The next morning, Deputy Munoz drove to Pomona Police Department to inquire about his vehicle. A Pomona Police desk clerk informed Deputy Munoz his vehicle was at "Sanders Tow" yard and the collision was being investigated by the California Highway

Patrol. Deputy Munoz drove to the tow yard to retrieve his cellular phone from his vehicle. Deputy Munoz provided Internal Affairs investigators with a property release form from "Sanders" Towing (See **Exhibit G**).

> **IAB NOTE-** On the night of the collision, Deputy Munoz walked back to the scene of the collision, but drove his dad's vehicle to Pomona Police Station the next morning. Deputy Munoz told Internal Affairs investigators, he did not drive back to the scene of the collision after retrieving his license because he could not find the keys to his dad's vehicle. His parents were in Mexico at the time of the incident.

After retrieving his cellular phone from the tow yard, he discovered his phone was dead. He charged his phone, and then called the California Highway Patrol, Baldwin Park Office. An unidentified officer began questioning Deputy Munoz which Deputy Munoz perceived as an interrogation. Deputy Munoz felt he needed to preserve his rights and denied to the officer, that he was driving the vehicle. The officer told Deputy Munoz to find out who was driving the vehicle and to respond to the Baldwin Park office. Deputy Munoz gathered his thoughts and responded to the CHP office at 1500 hours with intentions on admitting he was the driver. At the CHP office, Deputy Munoz completed a counter report admitting he was the driver (Refer to **Exhibit D**).

> **IAB NOTE-** Deputy Munoz told Internal Affairs investigators the reason he did not complete the counter report in its entirety was because he thought some of the questions did not apply.

At the CHP office, Deputy Munoz was provided with the face page of a report which indicated he was facing criminal charges. Deputy Munoz notified NCCF Lieutenant Lewandowski of the incident on May 9, 2013. On May 12, 2013, Deputy Munoz received two voice messages on his cellular phone from CHP Officer [redacted] Deputy Munoz did not return those phone calls on the advice of counsel.

Deputy Munoz said he was not drinking or under the influence of alcohol at the time of the collision. Initially, he did not believe the collision would be considered a hit and run accident because in his mind he had not damaged any property other than his own vehicle. Deputy Munoz said neither he nor Mr. [redacted] was injured during the collision. Deputy Munoz said he never identified himself to CHP as a deputy sheriff because he did not want preferential treatment.

During the second Internal Affairs interview of Deputy Munoz, he told investigators the last time he spoke with Mr. [redacted] was the day he ([redacted] was interviewed by Internal Affairs investigators (April 16, 2013). Mr. [redacted] called Deputy Munoz to tell him of the interview. Mr. [redacted] told Deputy Munoz investigators inquired about his prison time.

Deputy Munoz denied knowledge of Mr. [redacted] criminal history. He said Mr. [redacted] had tattoos but could not describe them to investigators. Deputy Munoz was shocked at finding out Mr. [redacted] had served time in prison but did not inquire from Mr. [redacted] as to why he served prison time. Deputy Munoz said he was not interested at the time to ascertain why Mr. [redacted] had gone to prison.

Deputy Munoz told investigators he did not see any similarities with the mannerisms or actions of Mr. [redacted] and inmates he interacted with as a Deputy Sheriff in the county jail.




# County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169




LEROY D. BACA, SHERIFF

August 29, 2013

Deputy Rafael Munoz, [redacted]

Dear Deputy Munoz:

On August 7, 2013, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2313304. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, it has been determined that the recommended discipline is appropriate.

You are hereby notified that you are discharged from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective as of the close of business on August 30, 2013.

An investigation under File Number IAB 2313304, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/030.10, Obedience to Laws, Regulations, and Orders [as it pertains to 20002 (A)(1) C.V.C., Permissible Action Duty Where Property Damage (hit and run)]; and/or 3-01/030.05, General Behavior; and/or 3-01/000.10, Professional Conduct, on or about May 8, 2012, while off-duty, you were involved in an off-duty solo traffic collision in the city of Pomona. Your personal vehicle struck a curb causing major damage to your vehicle. You and your passenger, [redacted] fled the scene of the traffic collision prior to law enforcement arriving. The vehicle was

left damaged, unattended and blocking lanes of traffic. You did not report the traffic collision until the following day, May 9, 2012, when you attempted to retrieve your vehicle from the tow yard where it was stored. You were charged with 20002 (A)(1) C.V.C., Permissible Action Duty Where Property Damage (hit and run). You pled nolo contendere in Pomona Superior Court on October 26, 2012, to a violation of 20002 (A)(1) C.V.C., Permissible Action Duty Where Property Damage (hit and run). You were placed on summary probation for two years and ordered to pay fines. You failed to adhere to the Core Values of the Department as you failed to apply wisdom and use common sense when you fled the scene of the traffic collision, and/or created a traffic hazard for other users of the road by abandoning your damaged vehicle in lanes of traffic. You conducted yourself in a manner which caused undue embarrassment to, and/or damaged the reputation of the Department; and/or brought discredit to yourself and/or the Department.

2. That in Violation of Manual of Policy and Procedures Section 3-01/040.90, Reporting Information, on or about May 8, 2012, you failed to promptly report to your immediate supervisor the circumstances surrounding your traffic collision and failure to remain at the scene as evidence by, but not limited to:

   a. stating during your internal investigation you did not report your involvement in a May 8, 2012, off-duty traffic collision and subsequent investigation which resulted in your conviction until approximately 15 hours elapsed after the traffic collision, and/or words to that effect.

3. That in violation of Manual of Policy and Procedures Sections 3-01/040.85, Cooperation During Criminal Investigation; and/or 3-01/040.76, Obstructing an Investigation/Influencing a Witness; on or about May 9, 2012, you failed to make full, complete and truthful statements to California Highway Patrol personnel when questioned regarding the May 8, 2012, traffic collision involving your vehicle as evidence by, but not limited to:

a. admitting during your April 16, 2013, internal interview that on May 9, 2012, you told California Highway Patrol personnel you were not the driver of your vehicle during the traffic collision on May 8, 2012, and/or;

b. failing to complete, in its entirety, a traffic collision report that you submitted to the California Highway Patrol on May 9, 2012, and provide full details of your traffic collision on May 8, 2012, and/or;

c. failing to include in your traffic collision report that you submitted to the California Highway Patrol on May 9, 2012, that [redacted] was a passenger in your vehicle during the traffic collision on May 8, 2013.

4. That in violation of Manual of Policy and Procedures Sections 3-01/050.85, Fraternization and Prohibited Associations; and/or 3-01/040.75, Failure to Make Statements, and/or Making False Statements During Departmental Internal Investigations; on or about May 8, 2012, you knowingly and willfully maintained a personal relationship or association with, and/or did favors for [redacted] a convicted felon; and/or failed to report to your unit commander your personal relationship or association with [redacted], as evidenced by, but not limited to:

a. admitting during your May 2, 2013, internal investigation you had known [redacted] as a neighbor for over 20 years, but denied you knew of [redacted] criminal activity, and/or;

b. stating during your May 2, 2013, internal interview that you had counseled [redacted] about choosing the right route in life as opposed to the route [redacted] was on, and/or;

c. admitting during your May 2, 2013, internal interview that [redacted] has been to your house for social gatherings and you have been to [redacted] house for social functions, and/or;

d. stating during your May 2, 2013, internal interview that you did not hang out with [redacted], but

admitted you allowed [redacted] to go with you to meet friends at a restaurant on May 8, 2012, because [redacted] simply asked to go.

Additional facts and grounds for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You may appeal the Department's action in this matter pursuant to Rules 4.02, 4.05 and 18.02 of the Civil Service Rules.

You may, if you so desire, within fifteen (15) business days from the date of service of this notice of discharge, request a hearing on these charges before the Los Angeles County Civil Service Commission, 222 North Grand Avenue, Los Angeles, California 90012.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

ERIC G. PARRA, CHIEF
CUSTODY SERVICES DIVISION – GENERAL POPULATION

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

EGP:AEA:jp

c: Advocacy Unit
Chief Eric G. Parra, Custody Services Division – General Population
Victor M. Trujillo, Captain, North County Correctional Facility
Internal Affairs Bureau
Office of Independent Review (OIR)
Kevin E. Hebert, Captain, Personnel Administration
Doreen Garcia




# CIVIL SERVICE COMMISSION
## COUNTY OF LOS ANGELES



January 12, 2015

FINAL COMMISSION ACTION

Subject of Hearing: *Petition of* ***RAFAEL MUNOZ*** *for a hearing on his* ***discharge,*** *effective August 30, 2013, from the position of Deputy Sheriff, Sheriff's Department,* **Case No. 13-408**.

The Civil Service Commission, at its meeting held on January 7, 2015 approved findings in the above-entitled case. The petitioner's objections were overruled.

Since a copy of these findings has already been provided to all the parties, we have enclosed a copy of the signed formal order of the Commission for your records.

Anyone desiring to seek review of this decision by the Superior Court may do so under Section 1085 or 1094.6 of the Code of Civil Procedure as appropriate. An action under Section 1094.6 can only be commenced within 90 days of the decision.

Lawrence D. Crocker
Executive Director

Enclosure

c: Rafael Munoz
Leslie Wilcox
Daniel Carmichael
Jennifer Gardner

BEFORE THE CIVIL SERVICE COMMISSION OF THE

COUNTY OF LOS ANGELES

| | |
|---|---|
| *In the matter of the **discharge**, effective August 30, 2013, from the position of Deputy Sheriff, Sheriff's Department, of*<br><br>**RAFAEL MUNOZ**<br>**(Case No. 13-408)** | ORDER OF THE CIVIL SERVICE COMMISSION |

On January 7, 2015, the Civil Service Commission of the County of Los Angeles overruled the petitioner's objections and adopted as its final decision the findings and recommendation of the Hearing Officer, Jennifer Gardner, to sustain the Department.

Dated this 14th day of January, 2015.

Z. GREG KAHWAJIAN, President

EVELYN V. MARTINEZ, Member

NAOMI NIGHTINGALE, Member

CAROL FOX, Member

JOHN DONNER, Member

LOS ANGELES COUNTY CIVIL SERVICE COMMISSION

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|---|---|---|
| In the Matter of the Appeal of | ) | CASE NO. 13-408 |
| | ) | |
| RAFAEL MUNOZ | ) | PROPOSED FINDINGS OF FACT, |
| | ) | CONCLUSIONS OF LAW AND |
| Appellant, | ) | RECOMMENDATION |
| | ) | |
| and | ) | |
| | ) | |
| LOS ANGELES COUNTY SHERIFFS' DEPARTMENT | ) | |
| | ) | |
| Respondent. | ) | |
| | ) | |

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**APPEARANCES**

For the Appellant:
Leslie L. Wilcox
Green & Shinee, A P.C.
16055 Ventura Boulevard, Suite 1000
Encino, CA 91436

For the Respondent:
Daniel C. Carmichael, III
LAW OFFICES OF WILLIAM BALDERRAMA
606 Monterey Pass Road, Suite 111
Monterey Park, CA 91754

Hearing Officer: Jennifer B. Gardner, Esq.
Hearing Dates: April 1 and 3, and June 3, 2014

## ISSUES

1. **Are the facts stated in the Department's Letter of Discharge dated August 29, 2013 true?**
2. **Was the discipline appropriate?**

## *EXHIBITS*

The Department and Appellants' exhibits are summarized on Exhibits "A" and "B" hereto, respectively.

## INTRODUCTION AND FACTUAL SUMMARY

On May 8, 2012, at approximately 11:30 p.m., while off-duty, Appellant was driving to a restaurant to meet some friends with his [redacted] While exiting the 10 freeway on Towne Avenue, Appellant was involved in a traffic collision when a car cut in front of his vehicle. To avoid a collision, Appellant veered quickly to *the right, and lost control of his vehicle. He collided with the center divider on Towne* Avenue, damaging a "Do Not Enter/Wrong Way" traffic sign. The impact caused his airbags to deploy. Appellant's vehicle came to rest in the center divider of Towne Avenue. It was blocking at least one of the lanes of Towne Avenue. It had suffered major front end damage and ultimately was declared a total loss. (See, DE 8 and 19 Traffic Collision Report) Appellant told investigators he did not recall hitting the sign. (DE 8)

Appellant did not immediately report the incident to police, to his Watch Commander, or to the California Highway Patrol. Appellant panicked when he realized he did not have his driver's license with him. Before police arrived, and without calling them to the scene, he left the scene of the accident on foot, walking home to get his license, and leaving his cell phone in his vehicle. Appellant then walked back to the accident scene. When he arrived approximately 80 minutes later, his vehicle was gone.

[redacted] was also gone. [redacted] fled the scene immediately. (DE 10 p. 14, DE 9 p. 5-6, DE 12 p 8 of 10, DE 19)

Appellant returned home on foot. Once at home, Appellant decided to deal with the situation later in the day, and he went to sleep. He did not call and report the accident because his [redacted] did not have a landline and his cell phone was in his vehicle. He did not consider using a pay phone. (DE 9, 10) CHP Officer [redacted] responded to Munoz's house at 0013, but no one answered. Appellant explained that he was probably asleep at the time. (DE 8)

When he woke up the next day, Appellant drove his [redacted] car to the Pomona Police Department to locate his vehicle. Appellant then drove to the tow yard to retrieve his cell phone and his vehicle. At the tow yard, his cell phone was dead. Appellant charged his phone at the tow yard. Once it was charged, he called the Baldwin Hills desk of the California Highway Patrol to report the incident. He spoke with a desk officer. Because he felt that the CHP officer was interrogating him, Appellant falsely stated that he had not been driving. (DE 8 and 10)

Later that day (around 3:00 p.m.), Appellant drove to the CHP station and filled out a counter-report regarding the collision. (See DE 19) In the counter report, Appellant stated that he was the driver. However, he left out several details, such as his speed, the fact that another vehicle cut him off, what lane that vehicle was travelling in, and whether he had any passengers. (DE 15) He failed to include that [redacted] was a passenger. Appellant wrote a brief statement regarding the details that led to the collision (attached to DE 19). Later, he discovered that the CHP was investigating the incident as a "hit and run" in violation of Vehicle Code § 20002(a)(1). He had not

considered the incident a "hit and run" because no one was injured and Appellant thought only his vehicle had been damaged. (Exhibit 10 p 13) He had not seen any other damage when he as at the scene. (Ibid.)

After learning that he was being investigated for hit and run, at approximately 4:30 p.m., Appellant called his Operations Lieutenant Lewandowski to report the incident. Appellant did not tell Lt. Lewandowski that he lied and denied he was driving when initially questioned by the CHP. He also did not inform Lt. Lewandowski that [redacted] was a passenger. Appellant then called his union representative who informed him to not make any further statements to the CHP.

Appellant and [redacted] lived on the same street together and had been [redacted] since they were young children. They socialized during their childhoods, and as [redacted] at barbeques. (DE 8) Appellant had counseled [redacted] about going to school and getting a job. Appellant also acknowledged that he and [redacted] had "obviously... took different routes in life;" however, Appellant denied knowing at the time of the incident that [redacted] was a [redacted] (while Appellant was working for the Department). Appellant told investigators that this incident was the first time that he and [redacted] had ever gone somewhere together. (DE 11) He denied "hanging out" with [redacted] all the time. (DE 8, p 15) He also told them that [redacted] had his cell phone number because they are neighbors and have known each other for over 20 years. (DE 11) Appellant claimed that he told [redacted] to wait at the scene for the police while he went home to get his driver's license; [redacted] did not tell

investigators that. Rather, he told them that he fled in order to avoid any contact with police. (Ibid.)

Appellant was charged with hit and run in violation of Vehicle Code § 20002(a)(1). On October 26, 2012, he pled *nolo contendere to one count of misdemeanor* hit and run (Vehicle Code § 20002 (A) (1)).

*As a result of these facts,* the Department discharged Appellant, having found that he had violated the following of policies and procedures:

1. Manual of Policy and Procedures Section 3-01/030.10, Obedience to Laws, Regulations and Orders;

2. Manual of Policy and Procedures Section 3-01/030.05, General Behavior;

3. *Manual of Policy* and Procedures Section 3-01/000.10 Professional Conduct;

4. Manual of Policy and Procedures Section 3-01/040.90, Reporting Information;

5. Manual of *Policy* and *Procedures Section 3-01/040/85, Cooperation During Criminal* Investigation, and/or 3-01/040.76, Obstructing an Investigation/Influencing a Witness;

6. Manual of Policy and Procedures Section 3-01/050.85, Fraternization and Prohibited Associations, and/or

7. *Manual of Policy and Procedures* 3-01/040.76 Failure to Make Statements and/or Making False Statements during Departmental Internal Investigations.

**Prior Work History**

Appellant was hired by the Department in 2007. In 2008 Appellant had been suspended without pay for ten (10) days for driving at a high rate of speed while under the influence of alcohol. (DE 21) He had received a number of good performance evaluations.

**EVIDENCE**

Appellant was interviewed by Internal Affairs Investigators on April 16, 2013 about the incident and on May 2, 2013 regarding his relationship with [redacted] The following evidence, which includes transcripts of those interviews, was particularly significant to this decision:

- Exhibit 10 - Transcript of April 16, 2013 Interview of Appellant by Internal Affairs Bureau ("IAB") and Appellant;

- Exhibit 11 - Transcript of May 2, 2013 Interview of Appellant by IAB;

- Exhibit 19 – Criminal Monitor File, Exhibit H to IAB Case No. IV2313304, which contains the 5/8/12 CHP Collision Report, 5/9/12 CHP Collision Counter Report, 5/24/12 CHP Arrest Investigation Report, and Photos of the collision area, and Minute Order from Case No. 2PK03174 wherein Appellant entered nolo contendere plea to VC 20002(a)(1).

The decision maker in this case was Chief Parra. He determined that discharge was appropriate based upon the interviews and the investigation that establish that Appellant was involved in the collision, failed to remain at the scene and report the

collision, and ultimately pled no contest to misdemeanor hit and run. According to Chief Parra, Appellant should have stayed at the scene, confirmed that he was not causing a traffic hazard, notified the authorities and waited for them to take appropriate action before leaving. His omissions violated the Department's Core Values and Obedience to Laws policy. To make matters worse, when Appellant reported the incident, he did so after the fact and only after giving inconsistent and incomplete information to the CHP. Only once he became aware that he was being investigated for criminal hit and run did Appellant report the incident to his Watch Commander. As a result of these circumstances, Appellant harmed the public service and brought discredit upon himself and the Department.

**DISCUSSION**

**1. *Are the Allegations Contained In The Department's Letter Of August 29,* 2013 true?**

The allegations in the letter of intent are substantially true, with a few minor deviations:

a. Appellant did not so much as "flee" the scene as he left it by walking home without first reporting the incident and waiting for police to arrive;

b. Appellant's vehicle partially blocked only one lane of traffic;

c. Appellant reported the incident to his supervisor Lt. Lewandowki approximately 17 hours after the incident occurred, rather than 15 hours later as stated in the letter of intent;

d. There was no specific place in the CHP report to include the information about [redacted] being a passenger in the vehicle; however, there was a space to provide this information had Appellant more candidly described what happened.

Sadly, the facts in this case were substantiated mostly by Appellant's own admissions in the CHP report, and during his two interviews with IAB investigators. Appellant made one misstep after the other, starting with his decision to drive Mr.

[redacted] Unfortunately, because of his conduct throughout the entire incident, and because he and Mr. [redacted] lived across the street from each other since childhood, it is difficult to believe that on the night of the incident Appellant was unaware that Mr. [redacted] had an extensive criminal record including three felony convictions. (DE 17, [redacted] Criminal History)

Appellant's first mistake on May 8, 2012 was driving Mr. [redacted] Mr. [redacted] fleeing the scene and Appellant's failure to stay at the scene raises many questions. Why did they both leave immediately if Appellant had nothing to hide? Did Appellant tell Mr. [redacted] to leave so that he would not be caught with him *and* without his *drivers' license? Why didn't Appellant stay at the scene and wait for assistance so that* his totaled vehicle could be safely towed and removed from blocking traffic lanes? Was he intoxicated at the time of the incident? His handling of the entire of the situation exhibits poor judgment. This conclusion is fortified by his failure to truthfully inform the CHP during the first telephone call that he was the driver of the vehicle, followed by his failure to include Mr. [redacted] in the CHP counter-report. A reasonable person would mention a witness who could substantiate his version of events, especially if he knew that he might be or was already being investigated for hit and run, unless *he had* something to hide.

The Department's policy against Fraternization and Prohibited Association *precluded Appellant from maintaining a personal* relationship or association with a person with an "...open and notorious reputation for criminal activity... Examples include, but are not limited to, persons *members know or reasonably should know* are... adjudged guilty of a felony crime." (Manual of Policy and Procedure Section 3-01/050.85, attached to DE 1 [emphasis added].) Mr. [redacted] at the time of the incident, and had [redacted] as of May 8, 2012. (DE 17) Appellant could not credibly deny knowledge of his [redacted] when they were [redacted] *since childhood and when he* admittedly counseled him how to choose the right path in life. Appellant tried to make it sound as if it was entirely Mr. [redacted] idea to accompany Appellant to the restaurant to meet the women (whose names and telephone numbers he deleted from his phone after the incident). As Chief Parra stated, "*friends* tag along."

2. **Was The Discipline Appropriate?**

The Hearing Officer agrees with the Department that the discipline imposed was appropriate. Appellant violated the Department's policy regarding General Behavior and Core Values by not telling the truth when he first reported the incident, by not staying at the scene following the collision, and by not reporting it properly in the counter-report. *He failed to ensure that his vehicle was not causing a traffic hazard,* notify the authorities and wait for them to take appropriate action before he left the accident scene. He delayed unreasonably in reporting the incident to his watch commander. By filing a vague counter report, Appellant failed to cooperate in the criminal investigation. He did not respond to CHP investigator who knocked at his door shortly after the incident. By leaving the scene he violated the "Obedience to Laws" policy. Moreover, Appellant was not candid and honest about his relationship with Mr. [redacted] Appellant knowingly and willfully maintained a relationship and association with and/or did favors for Mr. [redacted] This in and of itself could have been grounds for discharge.

Appellant had received a lot of training about the importance of integrity and what is expected of him during an investigation. However, his behavior did not reflect this training. Appellant's conduct the night in question did not serve the public service; instead, it harmed it.

**FINDINGS OF FACT**

1. At the time of his discharge, Appellant was permanently employed with the Los Angeles County Sheriff's Department and assigned to Industry Sheriff's Station.

2. On August 29, 2013, the Department discharged Appellant from service after approximately 6 years of service.

3. At the time of the May 8, 2012 incident, Appellant had [redacted]

4. On May 8, 2012, Appellant was involved in a solo-traffic collision in the city of Pomona.

5. During the May 8, 2012 incident, Appellant's personal vehicle struck a curb causing major damage to his vehicle. His vehicle was partially blocking one lane of traffic.

6. Appellant had a passenger, [redacted] in his vehicle during the incident. Mr. [redacted]

7. Appellant left the scene and walked home when he realized that he did not have his driver's license with him. He did not wait for law enforcement to arrive. He did not answer when a CHP investigating officer knocked on his door later that evening, presumably because he was asleep.

8. On May 9, 2012, Appellant called the CHP and stated he was not the driver of vehicle. Later that same day Appellant prepared a counter report in which stated that he was the driver, cryptically described the incident, and failed to mention that Mr. [redacted] was a passenger and a witness.

9. Appellant did not report the collision to his watch commander until approximately 17 hours later.

10. Appellant knowingly and willfully maintained a personal relationship or association with, and/or did favors for [redacted] Appellant failed to report to his unit commander his personal relationship or association with [redacted]

11. Appellant admitted during the IAB investigation that he had known [redacted] as a [redacted] that they socialized together, that they had

been to each other's homes for social gatherings, and that he had counseled [redacted] about choosing the right path in life.

12. On October 26, 2012, he pled nolo contendere to one count of misdemeanor hit and run (Vehicle Code § 20002 (A) (1)).

**CONCLUSIONS OF LAW**

1. Appellant violated Department Manual of Policy and Procedures Section 3-01/030.10, Obedience to Laws, Regulations and Orders;

2. Appellant violated Department Manual of Policy and Procedures Section 3-01/030.05, General Behavior;

3. Appellant violated Department Manual of Policy and Procedures Section 3-01/000.10 Professional Conduct;

4. Appellant violated Department Manual of Policy and Procedures Section 3-01/04090, Reporting Information,

5. Appellant violated Department Manual of Policy and Procedures Section 3-01/040/85, Cooperation During Criminal Investigation, and/or 3-01/040.76, Obstructing an Investigation/Influencing a Witness;

6. Appellant violated Department Manual of Policy and Procedures Section 3-01/050.85, Fraternization and Prohibited Associations, and/or

7. Appellant violated Department Manual of Policy and Procedures Section 3-01/040.75 Failure to Make Statements and/or Making False Statements during Departmental Internal Investigations.

8. The Department has met its burden of proving that the allegations in the letter of intent dated August 29, 2013 are true.

9. *The Department has met its burden of proving that the discipline was* appropriate.

## RECOMMENDATION

The Department met its burden of proving the factual allegations set forth in the August 29, 2013 letter of discharge. Therefore, it is recommended that the Commission sustain the Department.

Respectfully submitted,

DATED: August 19, 2014

Jennifer B. Gardner, Hearing Officer




Leroy D. Baca, Sheriff

*County of Los Angeles*
**Sheriff's Department Headquarters**
*4700 Ramona Boulevard*
*Monterey Park, California 91754-2169*




August 7, 2013

Deputy Rafael Munoz, #[redacted]

Dear Deputy Munoz:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective the close of business August 28, 2013.

An investigation under IAB File Number IV2313304, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/030.10, Obedience to Laws, Regulations, and Orders [as it pertains to 20002 (A)(1) C.V.C., Permissible Action Duty Where Property Damage (hit and run)]; and/or 3-01/030.05, General Behavior; and/or 3-01/000.10, Professional Conduct, on or about May 8, 2012, while off-duty, you were involved in an off-duty solo traffic collision in the city of Pomona. Your personal vehicle struck a curb causing major damage to your vehicle. You and your passenger, [redacted] fled the scene of the traffic collision prior to law enforcement arriving. The vehicle was left damaged, unattended and blocking lanes of traffic. You did not report the traffic collision until the following day, May 9, 2012, when you attempted to retrieve your vehicle from the tow yard where it was stored. You were charged with 20002 (A)(1) C.V.C., Permissible Action Duty Where Property Damage (hit and run). You pled nolo contendere in Pomona Superior Court on October 26, 2012, to a violation of 20002 (A)(1) C.V.C., Permissible Action Duty Where Property Damage (hit and run). You were placed on

summary probation for two years and ordered to pay fines. You failed to adhere to the Core Values of the Department as you failed to apply wisdom and use common sense when you fled the scene of the traffic collision, and/or created a traffic hazard for other users of the road by abandoning your damaged vehicle in lanes of traffic. You conducted yourself in a manner which caused undue embarrassment to, and/or damaged the reputation of the Department; and/or brought discredit to yourself and/or the Department.

2. That in Violation of Manual of Policy and Procedures Section 3-01/040.90, Reporting Information, on or about May 8, 2012, you failed to promptly report to your immediate supervisor the circumstances surrounding your traffic collision and failure to remain at the scene as evidence by, but not limited to:

   a. stating during your internal investigation you did not report your involvement in a May 8, 2012, off-duty traffic collision and subsequent investigation which resulted in your conviction until approximately 15 hours elapsed after the traffic collision, and/or words to that effect.

3. That in violation of Manual of Policy and Procedures Sections 3-01/040.85, Cooperation During Criminal Investigation; and/or 3-01/040.76, Obstructing an Investigation/Influencing a Witness; on or about May 9, 2012, you failed to make full, complete and truthful statements to California Highway Patrol personnel when questioned regarding the May 8, 2012, traffic collision involving your vehicle as evidence by, but not limited to:

   a. admitting during your April 16, 2013, internal interview that on May 9, 2012, you told California Highway Patrol personnel you were not the driver of your vehicle during the traffic collision on May 8, 2012, and/or;

   b. failing to complete, in its entirety, a traffic collision report that you submitted to the California Highway Patrol on May 9, 2012, and provide full details of your traffic collision on May 8, 2012, and/or;

   c. failing to include in your traffic collision report that you submitted to the California Highway Patrol on May 9, 2012, that [redacted] was a passenger in your vehicle during the traffic collision on May 8, 2013.

4. That in violation of Manual of Policy and Procedures Sections 3-01/050.85, Fraternization and Prohibited Associations; and/or 3-01/040.75, Failure to Make Statements, and/or Making False Statements During Departmental Internal Investigations; on or about May 8, 2012, you knowingly and willfully maintained a personal relationship or association with, and/or did favors for [redacted] a convicted felon; and/or failed to report to your unit commander your personal relationship or association with [redacted] as evidenced by, but not limited to:

   a. admitting during your May 2, 2013, internal investigation you had known Ruben Gonzalez as a neighbor for over 20 years, but denied you knew of Ruben Gonzalez' criminal activity, and/or;

   b. stating during your May 2, 2013, internal interview that you had counseled [redacted] about choosing the right route in life as opposed to the route [redacted] was on, and/or;

   c. admitting during your May 2, 2013, internal interview that [redacted] has been to your house for social gatherings and you have been to [redacted] house for social functions, and/or;

   d. stating during your May 2, 2013, internal interview that you did not hang out with [redacted] but admitted you allowed [redacted] to go with you to meet friends at a restaurant on May 8, 2012, because [redacted] simply asked to go.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Acting Chief Ralph Ornelas, on August 28, 2013, at 1000 hours, in his office, which is located at 450 Bauchet Street, Room E-835, Los Angeles, California 90012. If you are unable to appear at the scheduled time and wish to schedule some other time prior to August 28, 2013, for your oral response, please call Acting Chief Ornelas' secretary at [redacted] for an appointment.

If you choose to respond in writing, please call Acting Chief Ornelas' secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Acting Chief Ornelas' office by no later than August 28, 2013.

Unless you are currently on some other type of authorized leave, pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing. If you are presently on an authorized leave, that leave will continue during the fifteen (15) business days you have to respond to the intended discharge, or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at (323) 890-5300, to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Alicia E. Ault, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

AEA:PMP:cj

c: Advocacy Unit
Employee Relations Unit
Chief Eric Parra, Custody Services Division
Internal Affairs Bureau
Office of Independent Review (OIR)
(File #2313304)